

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

GAIL MCCOY,

Plaintiff,

v.

KILOLO KIJAKAZI, Acting  
Commissioner of Social Security,

Defendant.

**8:23CV281****ORDER**

Now before the Court is Acting Commissioner of Social Security Kilolo Kijakazi's ("Commissioner") Unopposed Motion to Reverse and Remand Pursuant to Sentence Four of 42 U.S.C. § 405(g) (Filing No. 13). Sentence four of 42 U.S.C. § 405(g) gives the Court the authority to "enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Commissioner of Social Security, with or without remanding the cause for a rehearing." *See Shalala v. Schaefer*, 509 U.S. 292, 296-97 (1993) (describing the difference between a sentence six remand and a sentence four remand under § 405(g), where a sentence four remand results in an "immediate entry of judgment" "with or without" a remand order). The Commissioner's motion asks the Court to enter such judgment (1) reversing the Commissioner's final decision in plaintiff Gail McCoy's ("McCoy") administrative case and (2) remanding the matter to "offer the Plaintiff the opportunity for a new hearing, take further action to complete the administrative record, and issue a new decision."

The insufficiency of an administrative record is, among others, a basis for a remand under sentence four of § 405 (g). *See Sullivan v. Finkelstein*, 496 U.S. 617, 624-26 (1990) (concluding a district court's reversal and remand on such grounds was entered pursuant to sentence four and was, thus, an appealable final judgment). The Commissioner's motion states a remand is necessary to further develop the administrative

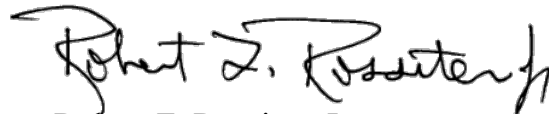
record in this matter. McCoy's Complaint (Filing No. 1), which challenges the denial of her request for disability benefits, similarly seeks reversal and remand on the basis that the evidence and reasoning supporting the Commissioner's decision is insufficient. Finding that the parties agree the now-requested relief is necessary to develop the administrative record,

IT IS ORDERED:

1. Defendant Kilolo Kijakazi's Unopposed Motion to Reverse and Remand pursuant to Sentence Four of 42 U.S.C. § 405(g) (Filing No. 13) is granted.
2. The Commissioner's final decision is reversed, and this case is remanded for further administrative proceedings.
3. Plaintiff Gail McCoy's pending Motion for an Order Reversing the Commissioner's Decision (Filing No. 11) is denied.
4. A separate judgment will issue.

Dated this 25th day of October 2023.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Robert F. Rossiter, Jr.", with a stylized flourish at the end.

Robert F. Rossiter, Jr.  
Chief United States District Judge